

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3096
Administrative Law Judge Division
October 3, 2002

R E S O L U T I O N

RESOLUTION ALJ 176-3096. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hkr

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on October 3, 2002, the following Commissioners voting favorably thereon:

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3096 (10/3/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-09-016 PRIMO COMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-09-017 ADVANCED TELEMAGEMENT GROUP, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-09-019 NEXTG NETWORKS OF CALIFORNIA, INC., for a Certificate of Public Convenience and Necessity in order to Provide Limited Facilities-Based and Resold Competitive Local Exchange, Access and Interexchange Service.	Ratesetting	Ratesetting	NO
A02-09-020 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338-E) for Authority to Lease Available Land on the Barre-Villa Park Transmission Right of Way to Katella Operating Properties II, LLC.	Ratesetting	Ratesetting	NO
A02-09-021 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-M) for the Reappointment of Gail Seneca to serve on the Committee of its Nuclear Decommissioning Trust Funds.	Adjudicatory	Ratesetting	NO
A02-09-022 CONVERSANT TECHNOLOGIES, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-09-026 ANGEL TELECOM, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-09-027 ELECTRIC LIGHTWAVE, INC., (U 5377-C), for Authorization pursuant to Section 854 of the California Public Utilities Code to Convert to a Limited Liability Company.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3096 (10/3/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-09-028 NORTH COUNTY TRANSIT DISTRICT, to construct two independent grade-separated Light Rail Transit bridge structures crossing over at-grade crossings of Barham Drive, proposed Crossing No.106E-117.11-B and La Moree Road, proposed Crossing No.106E-117.22-B in the City of San Marcos, County of San Diego, California.	Ratesetting	Ratesetting	NO
A02-09-030 CALIFORNIA-AMERICAN WATER COMPANY, (U 210-W), for an order Authorizing it to Increase rates for water service in its Sacramento District by \$8,198,700 or 50.77% in the year 2003; and by \$1,955,000 or 8.03% in the year 2004. (N02-09-025)	Ratesetting	Ratesetting	YES
A02-09-031 CALIFORNIA-AMERICAN WATER COMPANY, (U 210-W), for an order Authorizing it to Increase rates for water service in its Larkfield District by \$512,800 or 33.3% in the year 2003; and by \$96,900 or 4.72% in the year 2004. (N02-09-029)	Ratesetting	Ratesetting	YES
A02-09-032 CALIFORNIA-AMERICAN WATER DISTRICT, (U 210-W), for an order Authorizing it to Increase rates for water service in its Felton District by \$410,200 or 56.62% in the year 2003; by \$101,200 or 8.86% in the year 2004; and by \$31,000 or 2.29% in the year 2005. (N02-09-023)	Ratesetting	Ratesetting	YES
A02-09-033 CALIFORNIA-AMERICAN WATER COMPANY, (U 210-W), for an order Authorizing it to Increase rates for water service in its Montara District by \$234,200 or 18.69% in the year 2003; by \$38,200 or 2.57% in the year 2004; and by \$45,000 or 2.95% in the year 2005. (N02-09-024)	Ratesetting	Ratesetting	YES
A02-09-036 ENHANCED COMMUNICATIONS NETWORK, INC., dba ASIAN AMERICAN ASSOCIATION, for a Certificate of Public Convenience and Necessity to Provide Limited Facilities-Based and Resold Competitive Local Exchange and Interexchange Services in the State of California.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3096 (10/3/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-09-038 AXIUS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-09-039 HANDS ON SIGN LANGUAGE SERVICES, INC., (U 6667-C) for a Certificate of Public Convenience and Necessity to Provide (i) facilities-based competitive local exchange service throughout the service territories of Pacific Bell Telephone Company, Verizon California, Inc., Roseville Telephone Company, and Citizens Telecommunications Company of California, Inc.; and (ii) facilities-based interexchange service statewide.	Ratesetting	Ratesetting	NO
A02-09-040 FRUITRIDGE VISTA WATER COMPANY, Petition for Modification of Resolution W-4252, dated June 14, 2002.	Ratesetting	Ratesetting	NO
A02-09-042 ASEF HABID, RASMI B. ASSAF, Rasmi B. Assaf to sell and Transfer his one-half Interest in Citywide Shuttle and Limousine Service (PSC-14438), a partnership, to Asef Habid.	Ratesetting	Ratesetting	NO
A02-09-043 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-M) for a Certificate of Public Convenience and Necessity Authorizing the Construction of the Jefferson-Martin 230 kV Transmission Project.	Ratesetting	Ratesetting	YES
A02-09-044 GC ACQUISITION LIMITED, GLOBAL CROSSING LTD. (DEBTOR-IN-POSSESSION), for Expedited ex parte Approval of the transfer of Control of the California Operating Subsidiaries of Global Crossing Ltd. (Debtor-in-Possession) to GC Acquisition Limited.	Ratesetting	Ratesetting	NO